

REMARKS

Claims 1, 2, 4 and 6-21 were previously pending in the application and remain unchanged.

Claims 1, 2, 4 and 6-21 were rejected under 35 USC §103(a) as being unpatentable over either one of Pauty (US 4,080,885) or Codina Vilana, et al. (US 6,668,709) in view of Penaranda, et al. (US 6,186,656) and further in view of Priestman (US 2,822,198). Claims 1, 2, 4 and 6-21 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Areh, et al. (US 6,860,196) in view of Penaranda, et al. and further in view of Priestman.

Initially, Applicants respectfully submit that Codina Vilana et al. (US 6,668,709) is not prior art for the present application. The present application claims a foreign priority date of August 30, 2001. Codina Vilana et al. was not filed in the US under §371(c) until March 21, 2003 and the earlier international application for Codina Vilana et al. (WO02/00070) was not published in the English language. Therefore, Applicants respectfully request that the rejections based on the Codina Vilana et al. reference be withdrawn. Applicants will respond to the rejections based on the Pauty reference.

Claim 1

Independent Claim 1 recites a motorized kitchen appliance, comprising: a housing part; a drive shaft mounted in said housing part; a rotating element driven by said drive shaft; and a circlip securing said drive shaft against movement of said drive shaft in at least a first longitudinal direction of said drive shaft relative to said housing part, wherein the circlip includes a protruding wire formed by two legs of said circlip, the circlip engaging at least a portion of the housing part between the two legs to restrict rotational movement of the circlip with respect to the housing part.

Pauty discloses a fruit squeezer. As acknowledged by the Examiner, Pauty does not disclose any type of circlip. The Examiner states that, "it would have been an obvious matter of design choice to have provided the kitchen appliance of either one of Pauty or Codina Vilana, et al. with a removable circlip as suggested by Penaranda, et al." Applicants respectfully disagree and request reconsideration.

There is no reason to modify Pauty to include a circlip. The Examiner has not provided any reason to combine the references other than “mere design choice” and has not provided any evidence to support this conclusion. Nothing in the prior art provides any reason to combine the references as suggestion by the Examiner. To the contrary, the disclosure of Pauty specifically teaches away from the Examiner’s proposed combination of adding a circlip to the shaft of Pauty.

As shown in Fig. 7 of Pauty, the spindle (23) is entirely enclosed within the bearing. When at rest, no portion of the spindle (23) extends outwardly below the encasing portion. When actuated, the spindle (23) may slides out of the encasing portion to actuate the piston (33), but the spindle (23) then fully retracts back into encasing portion afterward. (See col. 3, lines 34-36) Because there is no exposed end of the spindle (23), there is absolutely no room on the spindle (23) to attach a circlip. Modifying the spindle (23) of Pauty to include a circlip would prevent the spindle (23) from completely retracting back into the encasing portion and render Pauty unsatisfactory for its intended purpose. The specific type of circlip, either Penaranda or Priestman, is irrelevant. The disclosure of Pauty teaches away from attaching any type of device to the spindle (23). Therefore, there is no reason to modify Pauty to include a circlip, as suggested by the Examiner, and Applicants respectfully request the rejections be withdrawn.

Even if Pauty could be combined with Penaranda or Priestman, which it can not, there is no reason to modify the circlip of Penaranda to include the two legs of Priestman. Penaranda teaches away from the proposed modification to include the legs of Priestman on the circlips (15, 16) of Penaranda, and the proposed modification would render Penaranda unsatisfactory for its intended purpose.

Penaranda discloses a mixing tool having a shaft assembly including a shaft (4), a bearing sleeve (7) disposed around the shaft (4), and a lower circlip (15) and upper circlip (16) connected to the shaft (4) on opposing sides of the bearing sleeve (7) to prevent axial displacement of the shaft (4) with respect to the sleeve (7). The entire purpose of Penaranda is to provide a simplified bearing structure with a sleeve and shaft assembly that can be assembled outside the housing in a pre-assembly process, and then easily inserted into the housing for final assembly. (See col. 2, lines 7-24) To achieve this

objective, the bearing structure includes compact circular circlips that do not extend radially outwardly. The bearing structure is pre-assembled with the circular circlips (15, 16) retaining the shaft (4) to the bearing sleeve (7). The bearing sleeve (7) is then inserted into the upper opening of the supporting member (8). (See col. 4, lines 38-42) As shown in Fig. 1, the circular circlips (15, 16) are tightly enclosed within the supporting member (8) with very little clearance. The circlips (15, 16) must fit through the opening in the upper section (9) of the supporting member (8).

Priestman discloses a fastener means with arms (16, 18). If the circular circlips (15, 16) of Penaranda were modified to include the outwardly extending arms (16, 18) of Priestman, the bearing structure would not fit through the tight fitting opening in the upper section (9) of the supporting member (8) of Penaranda. This proposed modification would render Penaranda unsatisfactory for its intended purpose of providing a simplified bearing structure that can easily be inserted into the housing for final assembly. Therefore, there is no reason to modify the circular circlips (15, 16) of Penaranda to include the outwardly extending arms (16, 18) of Priestman, and Applicants respectfully request the rejections be withdrawn.

For these and other reasons, Pauty, Penaranda, and Priestman, either alone or in combination, do not teach or suggest the subject matter defined by independent Claim 1 and it would not have been obvious to combine any of these references. Therefore, Claim 1 is allowable. Claims 2 and 4 depend from Claim 1 and are allowable for the same reasons and also because they recite additional patentable subject matter.

Claims 6 and 17

The above arguments regarding Claim 1 and the proposed combinations of Pauty, Penaranda, and Priestman are also applicable for the rejections of Claims 6 and 17. For the reasons outlined above, it would not have been obvious to combine Pauty, Penaranda, and Priestman, and the Examiner has not provided evidence to support the proposed combinations.

In addition, both Penaranda and Priestman teach away from the additional subject matter recited in Claims 6 and 17. Claims 6 and 17 both recite “the drive shaft being movable in an axial direction with respect to the housing.” In Penaranda and Priestman,

the circlips specifically **prevent** any axial movement of the shaft with respect to a housing. This teaches away from the claimed subject matter and also teaches away from the proposed combination with Pauty.

In Penaranda, the circlips (15, 16) secure the bearing sleeve (7) against axial movement on the shaft (4), and the bearing sleeve (7) is secured against axial movement with respect to the housing. Therefore, the circlips (15, 16) specifically **prevent** any axial movement of the shaft (4) with respect to a housing.

In Priestman, the entire purpose of the spring clip fastener is to **prohibit** axial movement of the shaft. (See col. 1, lines 18-31) As shown in Fig. 2, the fastener (10) engages the rod (26) and the loop (12) and arm (16) of the fastener (10) extend on opposite sides of the member (24) to **prevent** any axial movement of the rod (26) with respect to the housing or member (24).

Preventing axial movement of the shaft, as taught by both Penaranda and Priestman, clearly teaches away from any proposed combination with Pauty, which requires the spindle (23) be axially movable. This also clearly teaches away from the subject matter recited in Claim 6 and 17. Therefore, there is no reason to combine Pauty, Penaranda and Priestman and the references actually teach away from one another.

For these and other reasons, Pauty, Penaranda, and Priestman, either alone or in combination, do not teach or suggest the subject matter defined by independent Claims 6 and 17 and it would not have been obvious to combine any of these references. Therefore, Claims 6 and 17 are allowable. Claims 7-16 depend from Claim 6 and are allowable for the same reasons and also because they recite additional patentable subject matter. Claims 18-21 depend from Claim 17 and are allowable for the same reasons and also because they recite additional patentable subject matter.

Areh, et al.

Regarding the double-patenting rejections including Areh, et al., the Examiner has not identified any features of Areh that are not already shown in Pauty. As described above, the actual disclosures of Penaranda and Priestman teach away from any proposed combination with one another. Also, Areh discloses an axially movable shaft and, as described above, both Penaranda and Priestman teach away from any proposed

combination with a device having an axially movable shaft. Areh does not cure the deficiencies of Pauty, Penaranda or Priestman, and nothing in Areh, et al. provides any further evidence that it would have been obvious to combine Penaranda and Priestman with a device having an axially movable shaft. Therefore, for the same reasons stated above, it would not have been obvious to combine Penaranda and Priestman with Areh, et al. Applicants believe the arguments above regarding the cited prior art references are sufficient to overcome the double patenting rejections involving Penaranda and Priestman in combination Areh, et al. Therefore, Applicants do not feel it is necessary to provide a Terminal Disclaimer at this time.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of Claims 1, 2, 4 and 6-21 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig J. Loest", is written over the printed name.

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